THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO.4990 OF 1996

Between:

Srinivasa Steels, represented by its Proprietor Sri A.S.Rao, Vijayawada, Krishna District.

……Petitioner

Vs.

1.Rashtriya ISPAT Nigam Limited, Visakhapatnam Steel Plant, Visakhapatnam and another.

……..Respondents.

Dt.05.09.2005

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O R D E R:

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1. Learned counsel for the petitioner says that she has no instructions.

2. Petitioner called absent.

3) Heard the learned Standing Counsel for the respondents.

4) In response to a tender floated by the first respondent to sell the scrap, petitioner submitted his bid and became the highest bidder but failed to pay the amount due and payable as per the terms and conditions of auction and so first respondent gave a notice dated 28.02.1996 calling upon the petitioner to pay the amount due and payable from him, and putting him on notice that his failure to pay the amount demanded would entitle action as per the terms of the auction. Questioning the said communication, petitioner filed this writ petition on the ground though he is not liable to pay the sales tax he is being asked to pay sales tax; when as per A.P.General Sales Tax Act, 1957 (The Act) the last dealer who buys in the state the scrap has to pay the sales tax.

5) The contention of the first respondent is that as per the terms and conditions of the auction, buyer has to deposit 100% of the value of the bid amount along with the sales tax and other taxes if any, after adjusting the E.M.D. within 15 days from the date of issue of acceptance letter and since petitioner did not so pay that amount he is not entitled to any relief.

6) As per the terms and conditions of the auction, petitioner who became the

higher bidder, has to deposit 100% of the bid made by him along with sales tax and other taxes, if any, after adjusting E.M.D. within 15 days, irrespective of the provisions of the Act. So he cannot be heard to say that he is not bound to pay the sales tax. Even otherwise also petitioner cannot be said to be a loser because when he re sells the scrap purchased by him, he can collect the tax paid by him to the first respondent from the purchaser. When petitioner whith his eyes wide open, participated in bid knowing that he has to pay the sales tax also, he cannot be heard to say that he need not pay the sales tax. If he felt that he need not pay the sales tax, he ought not to have participated in the auction. So, he cannot be granted any relief.

7) Petitioner being aware that he, as per the terms and conditions of the auction, is liable to pay the sales tax filed this petition and obtained stay in 1996. So this is a fit case where he should be mulcted with heavy taxes for abusing the process of court. Therefore, the writ petition is dismissed with exemplary costs of Rs.10,000/-.

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C.Y.SOMAYAJULU J.,

Dt.05.09.2005

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